

**IN THE DISTRICT COURT OF THE UNITED STATES  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
ASHEVILLE DIVISION  
CIVIL CASE NO. 1:09cv355**

<b>JAMES L. GANN,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>vs.</b>	)	<b><u>ORDER</u></b>
	)	
<b>MICHAEL ASTRUE,</b>	)	
<b>Commissioner of Social Security</b>	)	
	)	
<b>Defendant.</b>	)	
_____	)	

**THIS MATTER** is before the Court on the parties' cross Motions for Summary Judgment [Docs. 7 & 9] and the Magistrate Judge's Memorandum and Recommendation [Doc. 12] regarding the disposition of those motions.

Pursuant to 28 U.S.C. § 636(b) and a specific Order of referral of the district court, the Honorable Dennis L. Howell, United States Magistrate Judge, was designated to consider these pending motions in the above-captioned action and to submit to this Court a recommendation for the disposition of these motions.

On September 1, 2010, the Magistrate Judge filed a Memorandum and Recommendation [Doc. 12] in this case containing proposed

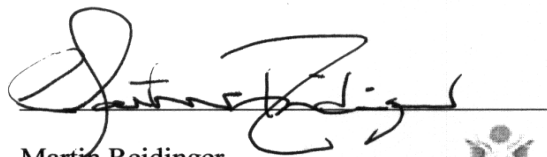
conclusions of law in support of a recommendation regarding the motions [Docs. 7 & 9]. The parties were advised that any objections to the Magistrate Judge's Memorandum and Recommendation were to be filed in writing within fourteen (14) days of service. The period within which to file objections has expired, and no written objections to the Memorandum and Recommendation have been filed.

After a careful review of the Magistrate Judge's Recommendation [Doc. 12], the Court finds that the proposed conclusions of law are consistent with current case law. Accordingly, the Court hereby **ACCEPTS** the Magistrate Judge's Recommendation that the Defendant's Motion for Summary Judgment be allowed and that the Plaintiff's Motions for Summary Judgment and to Receive New and Material Evidence be denied.

**IT IS, THEREFORE, ORDERED** that the Defendant's Motion for Summary Judgment [Doc. 9] is **ALLOWED**, and that the Plaintiff's Motion for Summary Judgment [Doc. 7] is hereby **DENIED**.

**IT IS SO ORDERED.**

Signed: September 25, 2010

  
Martin Reidinger  
United States District Judge

